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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Michael Dean Davis,

Plaintiff,

vs.

Maricopa County Sheriff's Office,
Defendant.

No. CV 13-1816-PHX-DGC (MEA)

ORDER

Plaintiff Michael Dean Davis, who is confined in the Fourth Avenue Jail in Phoenix, Arizona, filed a *pro se* Complaint in the Maricopa County Superior Court, matter number CV13-003309. (Doc. 1-1, Ex. 1.) In his Complaint, Plaintiff asserted violations of the U.S. Constitution and sued the Maricopa County Sheriff's Office (MCSO). MCSO timely removed the case to federal court based on federal question subject matter jurisdiction on September 4, 2013. Plaintiff later filed two requests for entry and application of default, to which MCSO filed a response.¹

The Complaint facially supports that subject matter jurisdiction is proper in federal

¹ **Error! Main Document Only.** Plaintiff is a "prisoner" within the meaning of the Prisoner Litigation Reform Act (PLRA). Under the PLRA, a "prisoner" is a "person incarcerated or detained in any facility" who has been convicted and sentenced for violations of criminal law. 28 U.S.C. §§ 1915(h), 1915A(c); 42 U.S.C. § 1997e(h). Consequently, this case is subject to PLRA requirements, including screening of the complaint. 28 U.S.C. §§ 1915(h), 1915A. Under the PLRA, a defendant is not required to respond to a prisoner complaint prior to screening of the complaint by the court. 42 U.S.C. § 1997e(g). As discussed herein, Defendant timely removed this case and was not required to respond until ordered to do so by this Court under the PLRA. Plaintiff's requests for entry of default will be denied.

1 court and that the case was timely removed. 28 U.S.C. § 1446(b). The Court will
2 dismiss the Complaint for failure to state a claim with leave to amend.

3 **I. Removal to Federal Court was Proper**

4 A defendant may remove any civil action brought in state court over which the
5 federal court would have original jurisdiction. 28 U.S.C. §1441(a). That is, a civil action
6 that could have originally been brought in federal court may be removed from state to
7 federal court. *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987). A federal court has
8 original jurisdiction “of all civil actions arising under the Constitution, laws, or treaties of
9 the United States.” 28 U.S.C. § 1331.

10 The Complaint in this case facially supports that subject matter jurisdiction exists
11 in federal court because Plaintiff alleges violation of his federal constitutional rights. 28
12 U.S.C. §§ 1441. Further, the case was timely removed. 28 U.S.C. § 1446(b).
13 Accordingly, the case was properly removed.

14 **II. Statutory Screening of Prisoner Complaints**

15 The Court is required to screen complaints brought by prisoners seeking relief
16 against a governmental entity or an officer or an employee of a governmental entity. 28
17 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff
18 has raised claims that are legally frivolous or malicious, that fail to state a claim upon
19 which relief may be granted, or that seek monetary relief from a defendant who is
20 immune from such relief. 28 U.S.C. § 1915A(b)(1), (2).

21 A pleading must contain a “short and plain statement of the claim *showing* that the
22 pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8
23 does not demand detailed factual allegations, “it demands more than an unadorned, the-
24 defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678
25 (2009). “Threadbare recitals of the elements of a cause of action, supported by mere
26 conclusory statements, do not suffice.” *Id.*

27 “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a
28 claim to relief that is plausible on its face.’” *Id.* (quoting *Bell Atlantic Corp. v. Twombly*,

1 550 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual
 2 content that allows the court to draw the reasonable inference that the defendant is liable
 3 for the misconduct alleged.” *Id.* “Determining whether a complaint states a plausible
 4 claim for relief [is] . . . a context-specific task that requires the reviewing court to draw
 5 on its judicial experience and common sense.” *Id.* at 679. Thus, although a plaintiff’s
 6 specific factual allegations may be consistent with a constitutional claim, a court must
 7 assess whether there are other “more likely explanations” for a defendant’s conduct. *Id.*
 8 at 681.

9 But as the United States Court of Appeals for the Ninth Circuit has instructed,
 10 courts must “continue to construe *pro se* filings liberally.” *Hebbe v. Pliler*, 627 F.3d 338,
 11 342 (9th Cir. 2010). A “complaint [filed by a *pro se* prisoner] ‘must be held to less
 12 stringent standards than formal pleadings drafted by lawyers.’” *Id.* (quoting *Erickson v.*
 13 *Pardus*, 551 U.S. 89, 94 (2007) (*per curiam*)).

14 If the Court determines that a pleading could be cured by the allegation of other
 15 facts, a *pro se* litigant is entitled to an opportunity to amend a complaint before dismissal
 16 of the action. *See Lopez v. Smith*, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (*en banc*). The
 17 Court should not, however, advise the litigant how to cure the defects. This type of
 18 advice “would undermine district judges’ role as impartial decisionmakers.” *Pliler v.*
 19 *Ford*, 542 U.S. 225, 231 (2004); *see also Lopez*, 203 F.3d at 1131 n.13 (declining to
 20 decide whether the court was required to inform a litigant of deficiencies). Plaintiff’s
 21 Complaint will be dismissed for failure to state a claim, but because it may possibly be
 22 amended to state a claim, the Court will dismiss it with leave to amend.

23 **III. Complaint**

24 Plaintiff alleges one count for violation of his Fourteenth Amendment due process
 25 rights in connection with disciplinary proceedings at the jail, which resulted in a higher
 26 custody level. As noted above, Plaintiff sues only MCSO. Plaintiff seeks declaratory,
 27 injunctive, compensatory, and punitive relief.

28 **IV. Failure to State a Claim**

1 To prevail in a § 1983 claim, a plaintiff must show that (1) acts by the defendants
 2 (2) under color of state law (3) deprived him of federal rights, privileges or immunities
 3 and (4) caused him damage. *Thornton v. City of St. Helens*, 425 F.3d 1158, 1163-64 (9th
 4 Cir. 2005) (quoting *Shoshone-Bannock Tribes v. Idaho Fish & Game Comm’n*, 42 F.3d
 5 1278, 1284 (9th Cir. 1994)). In addition, a plaintiff must allege that he suffered a specific
 6 injury as a result of the conduct of a particular defendant and he must allege an
 7 affirmative link between the injury and the conduct of that defendant. *Rizzo v. Goode*,
 8 423 U.S. 362, 371-72, 377 (1976).

9 **A. MCSO**

10 Plaintiff sues only MCSO. Claims under § 1983 are directed at “bodies politic and
 11 corporate.” *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658, 688-89 (1978). Under § 1983,
 12 Congress intended municipalities and other local government units to be included among
 13 those persons to whom § 1983 applies. *Id.* at 689-690. In Arizona, the responsibility for
 14 operating jails and caring for prisoners is placed by law upon the sheriff and the County.
 15 See Ariz. Rev. St. §§ 11-251(8), 11-291(A), 11-441(A)(5), 31-101. MCSO is simply an
 16 administrative creation of the sheriff to allow him to carry out his statutory duties; it is
 17 not a “person” amenable to suit pursuant to § 1983. See e.g., *Petaway v. City of New*
 18 *Haven Police Dep’t*, 541 F. Supp.2d 504 (D. Conn. 2008); *Pahle v. Colebrookdale Tp.*,
 19 227 F. Supp.2d 361 (E.D. Pa. 2002). Accordingly, MCSO will be dismissed from this
 20 action as an improper Defendant.

21 **B. Due Process**

22 Plaintiff asserts a violation of his due process rights in connection with
 23 disciplinary proceedings that resulted in a higher classification level at the jail. A *pretrial*
 24 *detainee* has a substantive due process right against restrictions that amount to
 25 punishment for a criminal offense. *Valdez v. Rosenbaum*, 302 F.3d 1039, 1045 (9th Cir.
 26 2002) (citing *United States v. Salerno*, 481 U.S. 739, 746 (1987); *Bell v. Wolfish*, 441
 27 U.S. 520, 535 (1979); *Redman v. County of San Diego*, 942 F.2d 1435, 1440-41 (9th
 28 Cir.1991) (*en banc*)). This right is violated if restrictions are “imposed for the purpose of

1 punishment.” *Bell*, 441 U.S. at 535. But jail officials are entitled to impose restrictions
 2 to effect confinement, and detention will necessarily affect a detainee’s ability to live as
 3 comfortably as he might like; a *de minimis* level of imposition is permissible. *Id.* at 539
 4 n.21. Thus, no unconstitutional punishment occurs when the government imposes
 5 restrictions as part of legitimate operational concerns to ensure security and order. *Id.* at
 6 540. However, imposition of punishment for violation of rules does require the
 7 procedural protections described by the Supreme Court in *Wolff v. McDonnell*, 418 U.S.
 8 539, 565-66 (1974). *Mitchell v. Dupnik*, 75 F.3d 517, 524 (9th Cir. 1996). These
 9 safeguards are: (1) written notice of the charges at least twenty-four hours prior to the
 10 hearing; (2) a written statement by the fact-finder as to the evidence relied on and reasons
 11 for the disciplinary action; and (3) a limited right to call witnesses and present
 12 documentary evidence when it would not be unduly hazardous to institutional safety or
 13 correctional goals to allow the inmate to do so. *Wolff*, 418 U.S. at 565-66.

14 Plaintiff appears to be a pretrial detainee. In addition to failing to name a proper
 15 Defendant, Plaintiff fails to allege when and how he was denied the procedural
 16 protections required under *Wolff*. Accordingly, he fails to state a due process claim in his
 17

18 1 Thus:

19 Not every disability imposed during pretrial detention amounts to
 20 “punishment” in the constitutional sense, however. Once the Government
 21 has exercised its conceded authority to detain a person pending trial, it
 22 obviously is entitled to employ devices that are calculated to effectuate this
 23 detention. Traditionally, this has meant confinement in a facility which, no
 24 matter how modern or how antiquated, results in restricting the movement
 25 of a detainee in a manner in which he would not be restricted if he simply
 26 were free to walk the streets pending trial. Whether it be called a jail, a
 27 prison, or a custodial center, the purpose of the facility is to detain. Loss of
 28 freedom of choice and privacy are inherent incidents of confinement in
 such a facility. And the fact that such detention interferes with the
 detainee’s understandable desire to live as comfortably as possible and with
 as little restraint as possible during confinement does not convert the
 conditions or restrictions of detention into “punishment.”

Bell, 441 U.S. at 537.

1 Complaint.

2 **V. Leave to Amend**

3 For the foregoing reasons, Plaintiff's Complaint will be dismissed for failure to
4 state a claim upon which relief may be granted. Within 30 days, Plaintiff may submit a
5 first amended complaint to cure the deficiencies outlined above. The Clerk of Court will
6 mail Plaintiff a court-approved form to use for filing a first amended complaint. If
7 Plaintiff fails to use the court-approved form, the Court may strike the amended
8 complaint and dismiss this action without further notice to Plaintiff.

9 Plaintiff must clearly designate on the face of the document that it is the "First
10 Amended Complaint." The first amended complaint must be retyped or rewritten in its
11 entirety on the court-approved form and may not incorporate any part of the original
12 Complaint by reference. Plaintiff may include only one claim per count.

13 A first amended complaint supersedes the original complaint. *Ferdik v. Bonzelet*,
14 963 F.2d 1258, 1262 (9th Cir. 1992); *Hal Roach Studios v. Richard Feiner & Co.*, 896
15 F.2d 1542, 1546 (9th Cir. 1990). After amendment, the Court will treat an original
16 complaint as nonexistent. *Ferdik*, 963 F.2d at 1262. Any cause of action that was raised
17 in the original complaint and that was voluntarily dismissed or was dismissed without
18 prejudice is waived if it is not alleged in a first amended complaint. *Lacey v. Maricopa*
19 *County*, 693 F.3d 896, 928 (9th Cir. 2012) (en banc).

20 **VI. Warnings**

21 **A. Release**

22 Plaintiff must pay the unpaid balance of the filing fee within 120 days of his
23 release. Also, within 30 days of his release, he must either (1) notify the Court that he
24 intends to pay the balance or (2) show good cause, in writing, why he cannot. Failure to
25 comply may result in dismissal of this action.

26 **B. Address Changes**

27 Plaintiff must file and serve a notice of a change of address in accordance with
28 Rule 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion

1 for other relief with a notice of change of address. Failure to comply may result in
2 dismissal of this action.

3 **C. Copies**

4 Plaintiff must submit an additional copy of every filing for use by the Court. *See*
5 LRCiv 5.4. Failure to comply may result in the filing being stricken without further
6 notice to Plaintiff.

7 **D. Possible Dismissal**

8 If Plaintiff fails to timely comply with every provision of this Order, including
9 these warnings, the Court may dismiss this action without further notice. *See Ferdik*, 963
10 F.2d at 1260-61 (a district court may dismiss an action for failure to comply with any
11 order of the Court).

12 **IT IS ORDERED:**

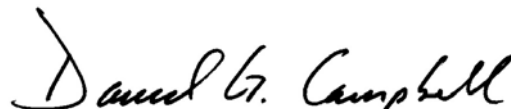
13 (1) The Complaint (Doc. 1) is **dismissed** for failure to state a claim. Plaintiff
14 has **30 days** from the date this Order is filed to file a first amended complaint in
15 compliance with this Order.

16 (2) If Plaintiff fails to file an amended complaint within 30 days, the Clerk of
17 Court must, without further notice, enter a judgment of dismissal of this action with
18 prejudice that states that the dismissal may count as a “strike” under 28 U.S.C. § 1915(g).

19 (3) The Clerk of Court must mail Plaintiff a court-approved form for filing a
20 civil rights complaint by a prisoner.

21 (4) Plaintiff’s requests to enter default are **denied**. (Doc. 3, 6.)

22 Dated this 8th day of April, 2014.

23
24 

25
26

David G. Campbell
27 United States District Judge
28

**Instructions for a Prisoner Filing a Civil Rights Complaint
in the United States District Court for the District of Arizona**

1. Who May Use This Form. The civil rights complaint form is designed to help incarcerated persons prepare a complaint seeking relief for a violation of their federal civil rights. These complaints typically concern, but are not limited to, conditions of confinement. **This form should not be used to challenge your conviction or sentence.** If you want to challenge a state conviction or sentence, you should file a petition under 28 U.S.C. § 2254 for a writ of habeas corpus by a person in state custody. If you want to challenge a federal conviction or sentence, you should file a motion under 28 U.S.C. § 2255 to vacate sentence in the federal court that entered the judgment.
2. The Form. **Local Rule of Civil Procedure (LRCiv) 3.4(a) provides that complaints by incarcerated persons must be filed on the court-approved form.** The form must be typed or neatly handwritten. The form must be completely filled in to the extent applicable. All questions must be answered clearly and concisely in the appropriate space on the form. If needed, you may attach additional pages, **but no more than fifteen additional pages**, of standard letter-sized paper. You must identify which part of the complaint is being continued and number all pages. If you do not fill out the form properly, you will be asked to submit additional or corrected information, which may delay the processing of your action. You do not need to cite law.
3. Your Signature. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
4. The Filing and Administrative Fees. The total fees for this action are \$400.00 (\$350.00 filing fee plus \$50.00 administrative fee). If you are unable to immediately pay the fees, you may request leave to proceed *in forma pauperis*. Please review the “Information for Prisoners Seeking Leave to Proceed with a (Non-Habeas) Civil Action in Federal Court *In Forma Pauperis* Pursuant to 28 U.S.C. § 1915” for additional instructions.
5. Original and Judge’s Copy. You must send an **original plus one copy** of your complaint and of any other documents submitted to the Court. You must send one additional copy to the Court if you wish to have a file-stamped copy of the document returned to you. All copies must be identical to the original. Copies may be legibly handwritten.
6. Where to File. You should file your complaint in the division **where you were confined when your rights were allegedly violated.** See LRCiv 5.1(a) and 77.1(a). If you were confined in Maricopa, Pinal, Yuma, La Paz, or Gila County, file in the Phoenix Division. If you were confined in Apache, Navajo, Coconino, Mohave, or Yavapai County, file in the Prescott Division. If you were confined in Pima, Cochise, Santa Cruz, Graham, or Greenlee County, file in the Tucson Division. **Mail the original and one copy of the complaint with the \$400 filing and administrative fees or the application to proceed *in forma pauperis* to:**

Phoenix & Prescott Divisions:
U.S. District Court Clerk
U.S. Courthouse, Suite 130
401 West Washington Street, SPC 10
Phoenix, Arizona 85003-2119

OR

Tucson Division:
U.S. District Court Clerk
U.S. Courthouse, Suite 1500
405 West Congress Street
Tucson, Arizona 85701-5010

7. Change of Address. You must immediately notify the Court and the defendants in writing of any change in your mailing address. **Failure to notify the Court of any change in your mailing address may result in the dismissal of your case.**

8. Certificate of Service. You must furnish the defendants with a copy of any document you submit to the Court (except the initial complaint and application to proceed *in forma pauperis*). Each original document (except the initial complaint and application to proceed *in forma pauperis*) must include a certificate of service on the last page of the document stating the date a copy of the document was mailed to the defendants and the address to which it was mailed. See Fed. R. Civ. P. 5(a), (d). Any document received by the Court that does not include a certificate of service may be stricken. A certificate of service should be in the following form:

I hereby certify that a copy of the foregoing document was mailed
this _____ (month, day, year) to:

Name: _____

Address: _____

Attorney for Defendant(s)

(Signature)

9. Amended Complaint. If you need to change any of the information in the initial complaint, you must file an amended complaint. The amended complaint must be written on the court-approved civil rights complaint form. You may file one amended complaint without leave (permission) of Court before any defendant has answered your original complaint. See Fed. R. Civ. P. 15(a). After any defendant has filed an answer, you must file a motion for leave to amend and lodge (submit) a proposed amended complaint. LRCiv 15.1. In addition, an amended complaint may not incorporate by reference any part of your prior complaint. LRCiv 15.1(a)(2). **Any allegations or defendants not included in the amended complaint are considered dismissed.** All amended complaints are subject to screening under the Prison Litigation Reform Act; screening your amendment will take additional processing time.

10. Exhibits. You should not submit exhibits with the complaint or amended complaint. Instead, the relevant information should be paraphrased. You should keep the exhibits to use to support or oppose a motion to dismiss, a motion for summary judgment, or at trial.

11. Letters and Motions. It is generally inappropriate to write a letter to any judge or the staff of any judge. The only appropriate way to communicate with the Court is by filing a written pleading or motion.

12. Completing the Civil Rights Complaint Form.

HEADING:

1. Your Name. Print your name, prison or inmate number, and institutional mailing address on the lines provided.
2. Defendants. If there are **four or fewer** defendants, print the name of each. If you name **more than four** defendants, print the name of the first defendant on the first line, write the words “and others” on the second line, and attach an additional page listing the names of **all** of the defendants. Insert the additional page after page 1 and number it “1-A” at the bottom.
3. Jury Demand. If you want a jury trial, you must write “JURY TRIAL DEMANDED” in the space below “CIVIL RIGHTS COMPLAINT BY A PRISONER.” Failure to do so may result in the loss of the right to a jury trial. A jury trial is not available if you are seeking only injunctive relief.

Part A. JURISDICTION:

1. Nature of Suit. Mark whether you are filing the complaint pursuant to 42 U.S.C. § 1983 for state, county, or city defendants; “Bivens v. Six Unknown Federal Narcotics Agents” for federal defendants; or “other.” If you mark “other,” identify the source of that authority.
2. Location. Identify the institution and city where the alleged violation of your rights occurred.
3. Defendants. Print all of the requested information about each of the defendants in the spaces provided. If you are naming more than four defendants, you must provide the necessary information about each additional defendant on separate pages labeled “2-A,” “2-B,” etc., at the bottom. Insert the additional page(s) immediately behind page 2.

Part B. PREVIOUS LAWSUITS:

You must identify any other lawsuit you have filed in either state or federal court while you were a prisoner. Print all of the requested information about each lawsuit in the spaces provided. If you have filed more than three lawsuits, you must provide the necessary information about each additional lawsuit on a separate page. Label the page(s) as “2-A,” “2-B,” etc., at the bottom of the page and insert the additional page(s) immediately behind page 2.

Part C. CAUSE OF ACTION:

You must identify what rights each defendant violated. The form provides space to allege three separate counts (**one violation per count**). If you are alleging more than three counts, you must provide the necessary information about each additional count on a separate page. Number the additional pages “5-A,” “5-B,” etc., and insert them immediately behind page 5. Remember that you are limited to a total of fifteen additional pages.

1. Counts. You must identify which civil right was violated. **You may allege the violation of only one civil right per count.**

2. Issue Involved. Check the box that most closely identifies the issue involved in your claim. **You may check only one box per count.** If you check the box marked "Other," you must identify the specific issue involved.

3. Supporting Facts. After you have identified which civil right was violated, you must state the supporting facts. Be as specific as possible. You must state what each individual defendant did to violate your rights. If there is more than one defendant, you must identify which defendant did what act. You also should state the date(s) on which the act(s) occurred, if possible.

4. Injury. State precisely how you were injured by the alleged violation of your rights.

5. Administrative Remedies. You must exhaust any available administrative remedies before you file a civil rights complaint. See 42 U.S.C. § 1997e. Consequently, you should disclose whether you have exhausted the inmate grievance procedures or administrative appeals for each count in your complaint. If the grievance procedures were not available for any of your counts, fully explain why on the lines provided.

Part D. REQUEST FOR RELIEF:

Print the relief you are seeking in the space provided.

SIGNATURE:

You must sign your name and print the date you signed the complaint. Failure to sign the complaint will delay the processing of your action. Unless you are an attorney, you may not bring an action on behalf of anyone but yourself.

FINAL NOTE

You should follow these instructions carefully. Failure to do so may result in your complaint being stricken or dismissed. All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number the pages.

Name and Prisoner/Booking Number

Place of Confinement

Mailing Address

City, State, Zip Code

(Failure to notify the Court of your change of address may result in dismissal of this action.)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

_____,)
(Full Name of Plaintiff) Plaintiff,)

vs.)

CASE NO. _____
(To be supplied by the Clerk)

(1) _____,)
(Full Name of Defendant)

(2) _____,)

(3) _____,)

(4) _____,)

Defendant(s).)

☐ Check if there are additional Defendants and attach page 1-A listing them.)

**CIVIL RIGHTS COMPLAINT
BY A PRISONER**

- ☐ Original Complaint
☐ First Amended Complaint
☐ Second Amended Complaint

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:

☐ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983

☐ 28 U.S.C. § 1331; Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971).

☐ Other: _____.

2. Institution/city where violation occurred: _____.

B. DEFENDANTS

1. Name of first Defendant: _____. The first Defendant is employed as:
_____ at _____.
(Position and Title) (Institution)
2. Name of second Defendant: _____. The second Defendant is employed as:
_____ at _____.
(Position and Title) (Institution)
3. Name of third Defendant: _____. The third Defendant is employed as:
_____ at _____.
(Position and Title) (Institution)
4. Name of fourth Defendant: _____. The fourth Defendant is employed as:
_____ at _____.
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☐ Yes ☐ No
2. If yes, how many lawsuits have you filed? _____. Describe the previous lawsuits:
 - a. First prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____
 - b. Second prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____
 - c. Third prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

COUNT III

1. State the constitutional or other federal civil right that was violated: _____.

2. **Count III.** Identify the issue involved. Check **only one**. State additional issues in separate counts.
- | | | | |
|--|---|---|---------------------------------------|
| <input type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ | |

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count III. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

- ## 5. Administrative Remedies.

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
- b. Did you submit a request for administrative relief on Count III? ☐ Yes ☐ No
- c. Did you appeal your request for relief on Count III to the highest level? ☐ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not.

If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.

E. REQUEST FOR RELIEF

State the relief you are seeking:

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____
DATE

SIGNATURE OF PLAINTIFF

(Name and title of paralegal, legal assistant, or
other person who helped prepare this complaint)

(Signature of attorney, if any)

(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.